

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIAN CALVERT, individually and on behalf of all others similarly situated,

Plaintiff,

v.

CABELA'S L.L.C.,

Defendant.

Case No.: 2:22-CV-01460-WSH

**STIPULATION EXTENDING TIME FOR PLAINTIFF TO RESPOND TO
DEFENDANT'S MOTION TO DISMISS AMENDED COMPLAINT**

Plaintiff Brian Calvert and Defendant Cabela's L.L.C., by and through their undersigned counsel hereby stipulate to an extension of time for Plaintiff to respond to Defendant's Motion to Dismiss Amended Complaint, and hereby state as follows:

1. On February 13, 2023, Defendant filed a Motion to Dismiss Amended Complaint. ECF No. 16.
2. On February 15, 2023, Arlie Tucker, the plaintiff in the matter *Tucker v. BPS Direct, LLC et al.*, Case No. 6:22-cv-03285-SRB (W.D. Mo.) moved the United States Judicial Panel on Multidistrict Litigation ("Panel"), pursuant to 28 U.S.C. § 1407 to transfer this Action and five other actions to the Western District of Missouri for coordinated or pretrial proceedings. *See In re: BPS Direct, LLC & Cabela's, LLC, Wiretapping Litigation*, MDL No. 3074 (J.P.M.L.).
3. On March 2, 2023, Plaintiff filed a motion to stay this action pending the Panel's decision on the motion to transfer. ECF No. 19.
4. Counsel for Plaintiff has conferred with counsel for Defendant, and Defendant has informed Plaintiff that it intends to oppose the motion to stay.

5. Plaintiff's Opposition to Defendant's Motion to Dismiss Plaintiff's Amended Complaint is currently due on March 6, 2023.

6. In light of the pending motion to transfer and briefing on the motion to stay, the parties have agreed to extend the deadline for Plaintiff to file his Opposition to Defendant's Motion to Dismiss Amended Complaint until seven (7) days following the Court's decision on the motion to transfer.

IT IS HEREBY STIPULATED AND AGREED that Plaintiff shall have up to and until seven (7) days after the Court rules on the motion to transfer to file his Opposition to Defendant's Motion to Dismiss Amended Complaint.

/s/ Nicholas A. Colella

Gary F. Lynch
Kelly K. Iverson
Jamisen A. Etzel
Elizabeth Pollock-Avery
Nicholas A. Colella
Patrick D. Donathen
LYNCH CARPENTER, LLP
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
P: 412-322-9243
gary@lcllp.com
kelly@lcllp.com
jamisen@lcllp.com
elizabeth@lcllp.com
nickc@lcllp.com
patrick@lcllp.com

Attorney for Plaintiff

/s/ Erin L. Leffler

Erin L. Leffler (PA ID No. 204507)
SHOOK, HARDY & BACON L.L.P.
Two Commerce Square
2001 Market St., Suite 3000
Philadelphia, PA 19103
Tel: (215) 278-2555
Fax: (215) 278-2594
eleffler@shb.com

Alfred J. Saikali (*pro hac vice forthcoming*)
Jennifer A. McLoone (*pro hac vice forthcoming*)
SHOOK, HARDY & BACON L.L.P.
201 South Biscayne Blvd., Suite 3200
Miami, FL 33131
Tel: (305) 358-5171
Fax: (305) 358-7470
Fax: (305) 358-7470
asaikali@shb.com
jmcloone@shb.com

Elisabeth A. Hutchinson (*pro hac vice forthcoming*)
SHOOK, HARDY & BACON L.L.P.
1600 17th St. Suite 450
Denver, CO 80202
Tel: (303) 285-5300
Fax: (303) 285-5301

ehutchinson@shb.com

Anna A. El-Zein (*pro hac vice forthcoming*)
SHOOK, HARDY & BACON L.L.P.
2555 Grand Boulevard
Kansas City, MO 64108
Tel: (816) 474-6550
Fax: (816) 421-5547

Attorney for Defendant Cabela's L.L.C.

APPROVED:

Dated: _____

W. Scott Hardy
United States District Judge